

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|---------------------------------|---|------------|
| SHELBY ENERGY COOPERATIVE, INC. |) | |
| _____ |) | CASE NO. |
| |) | 2011-00403 |
| ALLEGED FAILURE TO COMPLY WITH |) | |
| KRS 278.020(1) |) | |

O R D E R

On July 23, 2010, in Case No. 2010-00244,¹ Shelby Energy Cooperative, Inc. (“Shelby”) filed its application for a Certificate of Public Convenience and Necessity (“CPCN”) to construct certain improvements and additions to its existing plant at an estimated total cost of \$19,645,739. Shelby filed a copy of its 2010-2014 Construction Work Plan (“CWP”) in support of its application. The CWP describes improvements and additions to Shelby’s plant that are required over the four-year period for Shelby to serve its load. The CWP included numerous projects at an estimated cost of \$16,685,739, plus an amendment thereto to add Advanced Metering Infrastructure (“AMI”) at an estimated cost of \$2,960,000. Following its review of the application, the Commission issued an Order on August 3, 2011 granting Shelby a CPCN for the construction projects described in the CWP.

¹ Case No. 2010-00244, Application of Shelby Energy Cooperative, Inc. for a Certificate of Public Convenience and Necessity for Its 2010-2014 Construction Work Plan (Ky. PSC Aug. 3, 2011).

During the course of the Commission's investigation of Shelby's 2010-2014 CWP, Staff issued a data request to Shelby on January 14, 2011 to determine whether Shelby had already started construction on any of the projects in that CWP. In response to Item 7 of that data request, Shelby stated that it began installation of the AMI meters on October 4, 2010.² On May 12, 2011, Shelby filed a Memorandum of Law in support of its position that a CPCN was not needed to install its proposed AMI project. In rejecting Shelby's position, the Commission's August 3, 2011 Order included a detailed discussion of why a CPCN was needed for the AMI project. In addition, that Order referenced a July 27, 2010 Order in Shelby's last rate case in which the Commission stated that, "any projects involving significant capital investment by the cooperative, such as AMI, must be included in a work plan that is filed with the Commission and approved by our issuance of a CPCN prior to proceeding with any project activities."³

KRS 278.020 provides, in pertinent part, that:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

² Shelby's Response to Third Information Request of Commission Staff, Item 7, filed February 4, 2011.

³ Case No. 2009-00410, Application of Shelby Energy Cooperative, Inc. for an Adjustment of Rates (Ky. PSC Jul. 27, 2010).

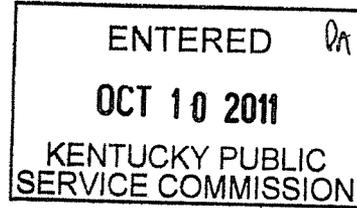
Based on the record of evidence in Case No. 2010-00244, which is incorporated herein by reference, and being otherwise sufficiently advised, the Commission finds it appropriate and necessary to investigate this matter further. A prima facie case has been made that Shelby violated KRS 278.020(1) by beginning construction on the AMI project without first obtaining a CPCN. Therefore, the Commission, on its own motion, establishes this investigation into Shelby's apparent failure to comply with KRS 278.020(1) to determine whether a civil penalty should be assessed pursuant to KRS 278.990 for Shelby's apparent violation of KRS 278.020(1).

IT IS HEREBY ORDERED that:

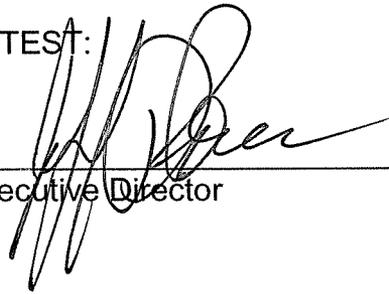
1. Shelby shall file, within 20 days of the date of this Order, a written response to the allegations contained in this Order.
2. Shelby shall appear on December 7, 2011, at 10:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violation of KRS 278.020(1) and to show cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for this alleged violation.
3. The official record of this proceeding shall be by video, unless otherwise requested by Shelby.
4. Any request by Shelby for an informal conference with the Commission Staff shall be set forth in writing and filed with the Commission within 20 days of the date of this Order.

5. The record of evidence in Case No. 2011-00244 is incorporated by reference only.

By the Commission



ATTEST:



Executive Director

Debbie Martin
President & CEO
Shelby Energy Cooperative, Inc.
620 Old Finchville Road
Shelbyville, KY 40065